

JUDGE MICHAEL'S POLICY REGARDING GRANTING RELIEF FROM BANKRUPTCY RULE 4001(a)(3) AS A MATTER OF COURSE

This Court will not grant relief from the ten-day stay of execution on an order modifying the automatic stay as is provided for in Rule 4001(a)(3) as a matter of course. After careful consideration, this Court has concluded that granting this relief as a matter of routine, particularly in cases where stay relief has been unopposed and is being granted by default, risks working considerable hardship on debtors, and particularly consumers, by effectively mooting any post-order remedies or relief they might seek. Rule 4001(a)(3) grants the Court wide discretion in shortening or eliminating the ten-day stay upon proper request. The Court believes this discretion is rendered meaningless if the relief is routinely granted without a stated basis.

Parties seeking to shorten or eliminate the ten-day stay pursuant to Rule 4001(a)(3) must include in *both* their *motion and proposed order* a concise statement of the factual basis for shortening or eliminating the stay in order to have such a request considered. In addition, the motion must include a statement that the movant seeks relief from the ten-day stay of execution provided for in Rule 4001(a)(3) *in the caption of the motion*. If any of these requirements is absent, the request for relief from the ten day stay of execution will be summarily denied. In the alternative, the Court will grant relief from the ten-day stay of execution provided for in Rule 4001(a)(3) where such relief is included in a proposed order which has been approved as to form and content by the debtors and, in a Chapter 7 case, any trustee. The Court will appreciate the cooperation of counsel in altering their forms accordingly.